

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED STATES OF AMERICA,)
Plaintiff,)
V.)
JOSE MEDINA,)
JORGE CARDENAS-GONZALES,)
DANNON COLE,)
ANTHONY THOMPSON,)
MICHAEL HILL,)
EDWIN MORALES,)
PORFIRIO ROJAS,)
JOSE MARTINEZ,)
SAUL MORENO,)
MIGUEL MEDINA MARTINEZ,)
ROMELIA PINEDA,)
GUSTAVO VASQUEZ GUZMAN, and)
SANTOS HERNANDEZ)
Defendants.)
No. 3:08-CR-48
(VARLAN / SHIRLEY)

MEMORANDUM AND ORDER

All pretrial motions in this case have been referred to the undersigned pursuant to 28 U.S.C. § 636(b) for disposition or report and recommendation regarding disposition by the District Court as may be appropriate. On June 25, 2008, this criminal action came before the Court for a hearing on the following motions: the government's Motion for Extension of Time Within Which to Provide Discovery [Doc. 75]; Defendant Jorge Cardenas-Gonzales's Motion for Extension of Time to File Motions [Doc. 76]; Defendant Anthony Thompson's Motion to Extend Time to File Motions [Doc. 77]; Defendant Porfirio Rojas's Motion to Extend Deadlines for Filing of Motions [Doc. 80]; Defendant Jose Medina's Motion to Adopt Motion to Continue Motions Deadline [Doc. 81];

Defendant Romelia Pineda's Motion for Extension of Time to File [Doc. 82]; Defendant Gustavo Vasquez Guzman's Motion to Adopt Motion for Extension of Time [Doc. 84]; Defendant Jose Martinez's Motion to Adopt to Continue Motions Deadline [Doc. 85]; Defendant Saul Moreno's Motion to Continue [Doc. 79]; and Defendant Romelia Pineda's Motion to Continue [Doc. 83]. Attorney Tracee Plowell appeared on behalf of the government. Attorney Donny Young appeared on behalf of Defendant Jose Medina, attorney Charles I. Poole appeared on behalf of Defendant Jorge Cardenas-Gonzales, attorney Charles C. Burks, Jr. appeared on behalf of Defendant Dannon Cole, attorney Joan Stallard Stewart appeared on behalf of Defendant Anthony Thompson, attorney Bruce Poston appeared on behalf of Defendant Michael Hill, attorney Richard Gaines appeared on behalf of Edwin Morales, attorney Kelly S. Johnson appeared on behalf of Porfirio Rojas, attorney Russ Greene appeared on behalf of Jose Martinez, attorney Gerald Gulley, Jr. appeared on behalf of Saul Moreno, attorney Randy Reagan appeared on behalf of Miguel Medina Martinez, attorney Michael Colemen appeared on behalf of Romelia Pineda, attorney Dennis Francis appeared on behalf of Gustavo Vasquez Guzman, and attorney Douglas Trant appeared on behalf of Santos Hernandez.

During the hearing, the parties all agreed that the currently scheduled trial date of July 9, 2008, was untenable and that the matter would need to be continued in order to allow Defendants time to fully review discovery, to file any necessary motions, for the Court to rule on any such motions, for the parties to appeal any such ruling to the District Court, if necessary, and for the parties to prepare for trial. More specifically, the government has just finished producing thousands of wire tap calls in discovery, and these calls need to be copied, reviewed, and translated (as many are in Spanish), and the parties and their attorneys will still need to obtain and review lab reports,

and then prepare the appropriate individual and/or collective motions.

In light of the agreement by the parties, the Court finds that the ends of justice served by a continuance outweigh the interest of Defendants and the public in a speedy trial. See 18 U.S.C. § 3161(h)(8)(A). Specifically, the Court finds that failure to grant a continuance under these circumstances would deny Defendant the reasonable time necessary for effective preparation for trial, resulting in a miscarriage of justice. See 18 U.S.C. § 3161(h)(8)(B)(i),(iv). The Court finds that this case not only involves multiple Defendants, but is alleged to be related to two other multi-defendant indictments, and that additional time is needed: to allow the Defendants to review the voluminous discovery in this matter; to allow the parties to file any necessary motions; for the Court to hear argument on and rule on any such motions; for the District Court to rule on any objections to any Reports and Recommendations the Court might issue; and for both parties to then prepare for trial based upon the resolution of any such motions. The Court finds that this could not take place before the July 9, 2008, trial date, or in less than approximately six months. Therefore, the trial in this matter is hereby **CONTINUED** to January 5, 2009.

Accordingly, the Court finds that all time between the filing of the instant motions and the new trial date of January 5, 2009, is fully excludable time under the Speedy Trial Act. See 18 U.S.C. § 3161(h)(8)(A)-(B)(i) and (iv). Counsel for government and for all of the Defendants agreed that the time in question was fully excludable.

In light of the new trial date, the Court set the following deadlines: the discovery deadline is extended to July 15, 2008; Defendants shall have until and including August 15, 2008, to file any motions; and the government shall have until and including September 5, 2008, to respond to any such motions. Additionally, the Court scheduled a motion hearing for September 11, 2008, at 9:30

a.m. A pretrial conference is scheduled for **November 20, 2008 at 10:00 a.m.** before the undersigned.

Accordingly, for the reasons set forth above, the government's Motion for Extension of Time Within Which to Provide Discovery [Doc. 75], Defendant Jorge Cardenas-Gonzales's Motion for Extension of Time to File Motions [Doc. 76]; Defendant Anthony Thompson's Motion to Extend Time to File Motions [Doc. 77]; Defendant Porfirio Rojas's Motion to Extend Deadlines for Filing of Motions [Doc. 80]; Defendant Jose Medina's Motion to Adopt Motion to Continue Motions Deadline [Doc. 81]; Defendant Romelia Pineda's Motion for Extension of Time to File [Doc. 82]; Defendant Gustavo Vasquez Guzman's Motion to Adopt Motion for Extension of Time [Doc. 84]; Defendant Jose Martinez's Motion to Adopt to Continue Motions Deadline [Doc. 85]; Defendant Saul Moreno's Motion to Continue [Doc. 79]; and Defendant Romelia Pineda's Motion to Continue [Doc. 83] are all hereby **GRANTED** to the extent set forth above.

In summary, it is **ORDERED**:

- (1) The trial of this matter is reset to commence on **January 5, 2009, at 9:00 a.m.**, before the Honorable Thomas A. Varlan, United States District Judge;
- (2) All time between the filing of the instant motions and the new trial date of **January 5, 2009**, is fully excludable time under the Speedy Trial Act for the reasons set forth above;
- (3) The discovery deadline is extended to **July 15, 2008**;
- (4) The motion deadline is extended to **August 15, 2008**;
- (5) Responses to any such motions shall be due on or before **September 5, 2008**;
- (6) The Court will conduct a hearing as to any such motions on **September 11, 2008, at 9:30 a.m.** before the undersigned; and

(7) The Court will hold a pretrial conference on November 20, 2008 at 10:00 a.m. before the undersigned.

IT IS SO ORDERED.

ENTER:

s/ C. Clifford Shirley, Jr.
United States Magistrate Judge